

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1, 4-9, 12-14 are presently pending in the present application. Claims 1 and 5 have been amended by way of the present Amendment. No new matter is introduced by this amendment.

In the Office Action, claim 5 was rejected under 35 U.S.C. §112, second paragraph as being indefinite; claims 1, 4, 9, 12, 13 and 14 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 5, 6 and 7 of U.S. App. Ser. No. 12/832,035; and claims 1, 4, 5, 6, 7, 9, 12, 13 and 14 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3, 21, 23, 26 and 27 of U.S. Patent No. 7,781,142.

Regarding the rejection of claim 5 under 35 U.S.C. §112, second paragraph, claim 5 has been amended to be dependent upon claim 1. Accordingly, Applicants request the withdrawal of the indefiniteness rejection.

Regarding the rejection under the judicially created doctrine of obviousness-type double patenting over claims of U.S. Patent No. 7,781,142, the Applicants have submitted herewith a timely filed terminal disclaimer in compliance with 37 CFR §1.321(c) in order to overcome the obviousness-type double patenting rejection. The present application and U.S. Patent No. 7,781,142 are commonly owned. Accordingly, the Applicants respectfully request the withdrawal of the obviousness-type double patenting rejection based on U.S. Patent No. 7,781,142.

Regarding the provisional rejection under the judicially created doctrine of obviousness-type double patenting over claims of U.S. App. Ser. No. 12/832,035, the Applicants note that this provisional rejection is the only rejection remaining in the present application, and therefore in accordance with MPEP §804 I.B. this provisional rejection should be withdrawn without the need for a terminal disclaimer. Accordingly, the Applicants respectfully request the withdrawal of the obviousness-type double patenting rejection based on U.S. App. Ser. No. 12/832,035.

Therefore, the present application is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9957 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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Date

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